

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MURIEL NATHAN MAJOR, EXECUTRIX OF
THE ESTATE OF MARGHERITA FANNY NATHAN,
DECEASED

Claim No. CU-3342

Decision No. CU 1922

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Szold, Brandwen, Meyers & Altman
By Stephen A. Helman, Esquire

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by MURIEL NATHAN MAJOR, EXECUTRIX OF THE ESTATE OF MARGHERITA FANNY NATHAN, DECEASED, and is based on the asserted loss of an interest in bonds issued by the Cuba Railroad Company. Decedent had been a national of the United States since her naturalization on May 3, 1948.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

On the basis of the evidence of record, the Commission finds that MARGHERITA FANNY NATHAN was, and since prior to October 13, 1960, had been the owner of ten bonds in the original face amount of \$10,000.00, issued by the Cuba Railroad Company and known as First Mortgage Gold Bonds, 4%, due June 30, 1970, and issued under a Supplemental Indenture of July 1, 1952, with Guaranty Trust Company of New York as Trustee (formerly First Mortgage, 50 Year Gold Bonds issued September 18, 1902, 5%, due July 1, 1952, with the Morton Trust Company of New York as Trustee). The bonds in question are Nos. TRM 186 through TRM 195, inclusive, and the last payment of interest on the subject bonds was made on January 1, 1959.

Pursuant to the Supplemental Indenture of July 1, 1952, the bonds are overstamped to set forth an outstanding principal balance of \$460.00 each, and to provide total annual interest of \$18.40 each, or, 4% of the outstanding principal balance.

Further, the Commission finds that MARGHERITA FANNY NATHAN was, and since prior to October 13, 1960, had also been the owner of five bonds in the original face amount of \$1,000.00 each, issued by the Cuba Railroad Company and known as "Improvement and Equipment Gold Bonds, 4%, due June 30, 1970" issued under an Indenture of July 1, 1910, and Supplemental Indentures dated July 1, 1952 and December 1, 1959, with Chemical Bank New York Trust Company as Successor Trustee. The Improvement and Equipment bonds in question are Nos. M 1322 through M 1326, inclusive, and the last payment of interest on these bonds was made on November 1, 1958.

The record reflects that MARGHERITA FANNY NATHAN died testate on June 12, 1965 and Letters Testamentary were issued to MURIEL NATHAN MAJOR

on July 28, 1965. MURIEL NATHAN MAJOR, EXECUTRIX OF THE ESTATE OF MARGHERITA FANNY NATHAN, is therefore substituted as claimant. The beneficiary of the estate has been a national of the United States since birth.

The record discloses that Cuba Railroad Company was owned by Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba). They were listed as nationalized by Cuban Law 890, published in the Cuban Official Gazette on October 13, 1960. Consolidated Railroads was organized under the laws of Cuba and does not qualify as a corporate "National of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. Moreover, although Cuba Railroad Company was organized in New Jersey, it is wholly owned by Consolidated Railroads and does not qualify as a national of the United States under Section 502(1)(B) (supra). (See Claim of Kramer, Marx, Greenlee and Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].

Therefore, claimant is entitled to file this claim based upon the bonds in question which represent debts of a nationalized enterprise within the purview of Section 502(3) of the Act. (See Claim of Edgar F. Corliss, Claim No. CU-0785 and Claim of Joseph Gans, Claim No. CU-1720.)

The Commission, therefore, finds that the amount of the unpaid indebtedness on the decedent's ten First Mortgage 4% Bonds on October 13, 1960, the date of loss, was \$4,928.60; including the principal amount of \$4,600.00, and the interest due on the bonds in the amount of \$328.60.

The Commission further finds that the total amount of the unpaid indebtedness on the Improvement and Equipment Gold Bonds was \$3,423.40, including the principal amount of \$3,175.00, and the interest due on the bonds from November 1, 1958 to October 13, 1960, the date of loss, in the amount of \$248.40, and that the total loss sustained by testatrix and succeeded to by claimant amounted to \$8,352.00.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

Accordingly, the Commission concludes that the total amount of loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provision is made for settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that MURIEL NATHAN MAJOR, EXECUTRIX OF THE ESTATE OF MARGHERITA FANNY NATHAN, DECEASED suffered and succeeded to a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eight Thousand Three Hundred Fifty-Two Dollars (\$8,352.00) with interest thereon at 6% per annum from October 13, 1960 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

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The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.